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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,530	05/15/2001	Reto Sieber	F 6817	5031

7590

04/16/2003

Jordan and Hamburg
122 East 42nd Street
New York, NY 10168

EXAMINER

AHMAD, NASSER

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 04/16/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/762,530

Applicant(s)
Sieber et al.

Examiner
Nasser Ahmad

Art Unit
1772



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 10, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-31 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 9
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 1772

1. Applicant's arguments with respect to claims 11-29 have been considered but are moot in view of the new ground(s) of rejection.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marchal (GB: 2,063,710).

Marchal relates to a double-sided, self-adhesive sheet comprising a backing layer of synthetic material (page 2, col. 2, lines 116-119) and the adhesive are tacky with one side adhesive having a strength different from the other side adhesive. As shown in the drawings, the second adhesive is planar. Also, because the adhesive is tacky and sticky, it is pressure sensitive adhesive. In page-2, col. 1, lines 31-36, a textile structure is arranged on at least the top surface of the backing layer. The textile structure is a weave of intersecting thread, which would be forming a mesh arrangement. The reference also teaches a method of bonding a floor covering to a floor. However, Marchal fails to teach that the sheet is at least 350 mm wide. It would have been obvious to one having ordinary skill in the art to modify Marchal by providing said width of at least 350 mm, based on optimization through routine experimentation, as the reference also is directed to the same field as the instant application and coverage extent would be obvious optimization.

Art Unit: 1772

Similarly, the adhesive strengths would also have been obvious based on optimization through routine experimentation.

Further, the process conditions in the product claims have not been given patentable, as said conditions are not germane to the patentability of the product itself.

4. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marchal.

Marchal, as discussed above, discloses the claimed invention except for floor being parquet and the backing being polyethylene or polypropylene film. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide polyethylene or polypropylene film, or parquet floor, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

The use of a known material also would have been obvious in the absence of any criticality shown in the application.

5. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marchal.

Marchal, as discussed above, discloses the claimed invention except for a second textile structure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide for the second textile structure for enhancing reinforcement to the sheet, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. St. Regis Paper Co. vs. Benis Co., 193 USPQ 8.

6. The substitute specification filed with amendment (Paper No. 8) on January 10, 2003 have been received and entered into the application.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication the examiner should be directed to Nasser Ahmad whose telephone number is (703) 308-4424. The examiner can generally be reached on Monday-Thursday from 7:30 a.m. to 5 p.m. and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone numbers for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 305-7115 for After Final communications.

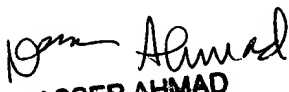
Application/Control Number: 09/762,530

Page 5

Art Unit: 1772

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

N. Ahmad/dh
April 15, 2003


NASSER AHMAD
PRIMARY EXAMINER